

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7502**  
**BILL NUMBER: HB 1002**

**NOTE PREPARED:** Feb 16, 2015  
**BILL AMENDED:** Feb 10, 2015

**SUBJECT:** Ethics.

**FIRST AUTHOR:** Rep. Bosma  
**FIRST SPONSOR:** Sen. Long

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) *Statement of Economic Interests:* This bill provides that an individual ("filer") filing a legislative statement of economic interests must disclose the name of any business entity in which the filer, the filer's spouse, or the filer's unemancipated children own stock, stock options, or other interest having a fair market value of more than \$5,000. (Under current law, the threshold amount is \$10,000.) It requires a filer to describe the nature of the business of each business entity reported on the filer's statement in such a way to make it clear to an individual of ordinary understanding the nature of the business entity. It requires a filer to report the name of any person from which the filer derived 25% or more of the filer's income. (Under current law, a filer must report the name of such a person only if the filer receives 33% or more of the filer's income.) The bill also requires a filer to report the name of a lobbyist who is a relative of the filer.

*Affidavits Concerning Nonlegislative Income:* The bill requires a member of the General Assembly, not later than January 20 of each year, to file an affidavit with any lobbyist who has provided more than 25% of the member's nonlegislative income during the previous year. (Under current law, the threshold is one-third of a member's nonlegislative income.)

*Legislative Code of Ethics:* The bill requires both the House and the Senate to adopt a Code of Ethics. It eliminates the requirement that a Code of Ethics be adopted each year by both the House and the Senate. It provides that a Code of Ethics remains in effect until the Code of Ethics is amended by the house to which the code applies, notwithstanding the occurrence of an election for the House or the Senate.

*Ethics Committees:* The bill requires the Ethics Committee of each house to provide for the review of each statement of economic interests. It provides that the Ethics Committee may require a filer to provide

additional information about any matter reported or required to be reported in the filer's statement.

*Ethics Training:* The bill requires the ethics rules to require each member to receive training in the ethics requirements of the ethics rules, the ethics statute, and any other relevant statutes. It provides that a member's failure to receive the training constitutes disorderly conduct under the Indiana Constitution.

*Office of Legislative Ethics:* The bill establishes the Office of Legislative Ethics in the Legislative Services Agency.

*Lobbyist Registration:* The bill eliminates the requirement that an individual registering as a lobbyist provide certain information relating to the lobbyist's temporary residence in Marion County.

*Legislative Liaisons:* The bill eliminates the reporting of lobbying expenditures by legislative liaisons in the executive branch and for state educational institutions. It requires state educational institutions to report certain expenses related to lobbying by their employees and related foundations.

*Post Employment Restrictions and Waivers:* The bill provides that post employment restrictions on employees of the executive branch may be waived only if certain requirements are met. It makes changes to the restrictions on post employment activity of state officers, employees, and special state appointees.

*Use of State Materials:* The bill provides that a state officer, state employee, or special state appointee may not use state materials, funds, property, personnel, facilities, or equipment for purposes other than official state business unless the use is expressly permitted by a general written policy or regulation that has been approved by the State Ethics Commission. It provides that a state officer, a state employee, or a special state appointee may not use state materials, funds, property, personnel, facilities, or equipment for a political purpose except: (1) to coordinate the state officer's official, personal, and political calendars; (2) to provide transportation and security for the state officer and any employee or special state appointee who accompanies the state officer; and (3) for incidental or de minimus political communications or activity involving the state officer.

*Other Changes:* The bill reenacts the legislative ethics statute in a different Indiana Code location. It repeals the existing legislative ethics statute. It makes technical amendments to reflect the changes described.

**Effective Date:** July 1, 2015.

**Explanation of State Expenditures:** *Statement of Economic Interests:* These forms would need to be revised to reflect the bill's changes. The bill provides that the forms will be prescribed by the Legislative Council. Current law specifies that the forms are provided by the Principal Clerk of the House or the Secretary of the Senate. The House of Representatives currently posts Statements of Economic Interests on the Indiana General Assembly website. This bill would require the Senate to post these documents on the website too. The Legislative Council, House of Representatives, and the Senate are funded through General Fund appropriations.

(Revised) *Lobbyist Registration:* The bill provides that registration forms must include the name of any legislative member who is a relative of the lobbyist. The Indiana Lobby Registration Commission (ILRC) would need to revise forms to comply with these changes. The ILRC is funded through General Fund appropriations.

*(Revised) Office of Legislative Ethics (OLE):* This bill provides for the establishment of an Office of Legislative Ethics within the Legislative Services Agency (LSA). The bill specifies that a director be appointed by the Legislative Council. It is anticipated that the duties of the OLE could potentially require the work of one full-time employee. The state staffing table indicates that LSA has a vacant position that could be filled for this purpose. The bill also could potentially result in some additional expenses relating to temporary employees, employee training, and computer programming.

*Legislative Liaisons:* The bill repeals the current law governing the reporting of lobbying expenditures of legislative liaisons, which would reduce some workload of the ILRC. There were 45 legislative liaison reports filed in 2013 and 43 reports filed in 2014. Generally, reports received from legislative liaisons indicate that there were no lobbying expenditures to report. The bill still requires reporting by legislative liaisons employed by state educational institutions.

*Disclosures to State Ethics Commission:* The bill provides that state officers, employees, or special state employees who identify a potential conflict of interest may either seek an advisory opinion from the State Ethics Commission or file a written disclosure statement with the State Ethics Commission that provides details of the conflict of interest. The bill also provides that state officers, employees, or special state employees must file a written disclosure with the Inspector General that provides disclosure of all financial interests in a contract if they do not have contracting responsibility for an agency. The written disclosures would be posted on the Inspector General's website.

*Post Employment Restrictions and Waivers:* This bill would require additional components for waivers granted by state agency leaders concerning the employment or compensation of former state officers, employees, or special state employees. The bill provides that the State Ethics Commission may conduct an administrative review of a waiver. There have been a total of 68 postemployment waivers filed with the State Ethics Commission since 2010.

*(Revised) Use of State Materials:* If the State Ethics Commission finds violations of the provisions of this bill regarding the use of state materials, the Commission may take any of the following actions under IC 4-2-6-12:

- (1) Impose a civil penalty upon a respondent not to exceed three times the value of any benefit received from the violation.
- (2) Cancel a contract.
- (3) Bar a person from entering into a contract with an agency or a state officer for a period specified by the commission.
- (4) Order restitution or disgorgement.
- (5) Reprimand, suspend, or terminate an employee or a special state appointee.
- (6) Reprimand or recommend the impeachment of a state officer.
- (7) Bar a person from future state employment as an employee or future appointment as a special state appointee.
- (8) Revoke a license or permit issued by an agency.
- (9) Bar a person from obtaining a license or permit issued by an agency.
- (10) Revoke the registration of a person registered as a lobbyist under IC 4-2-8.
- (11) Bar a person from future lobbying activity with a state officer or agency.

The bill also provides that the state Code of Ethics adopted by the Inspector General may not allow for the use of state property for political purposes and provides for some exceptions. The current administrative rule

governing the use of state property would likely need to be revised as a result of this bill. Any further impacts to the workload of the Inspector General or the State Ethics Commission would depend upon the extent that investigations occur as a result of this bill, and that they result in complaints filed with the State Ethics Commission or agreed settlements negotiated with the State Ethics Commission.

Currently, 42 IAC 1-5-12 addresses the use of state property as follows: A state officer, employee, or special state appointee shall not make use of state materials, funds, property, personnel, facilities or equipment for any purpose other than for official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation.

**Explanation of State Revenues:** (Revised) *Late Report Fees:* This bill imposes late fees on gift and purchase reports of \$100 for each day the reports are late, up to a maximum of \$4,500. If these late fees had been charged during the 2014 reporting year, about \$10,000 would have been generated in revenue. However, it is likely that charging the fee will result in increased compliance with deadlines, reducing the amount of revenue that may be received. Any revenue from these fees would be deposited in the state General Fund.

*Civil Penalty:* Failure to comply with disclosure to the State Ethics Commission of financial interests in state contracts or filing deficient disclosures could result in civil penalties of \$10 for each day the statement is delinquent or deficient. The maximum penalty for these violations would not exceed \$1,000.

*Use of State Materials:* The bill provides that violations of this bill regarding the use of state materials could be subject to a civil penalty imposed by the State Ethics Commission not to exceed three times the value of any benefit received from the violation. Civil penalties would be deposited in the state General Fund.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** House of Representatives; Senate; Indiana Lobby Registration Commission; Legislative Services Agency; Inspector General; State Ethics Commission; All.

**Local Agencies Affected:**

**Information Sources:** Amy Nicholson, Indiana Lobby Registration Commission; Cynthia Carrasco, State Ethics Commission. February 2, 2015, State Staffing Table.

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